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In replying  
refer to PR-96-020

August 15, 1996

Mr. David S. Guzy, Chief  
Rules & Procedures Staff  
Royalty Management Program  
Minerals Management Service  
P.O. Box 25165, MS 3101  
Denver, CO 80225-0165



Dear Mr. Guzy:

Marathon Oil Company appreciates this opportunity to submit comments on the MMS' five options (OPTIONS), as published in the May 21, 1996 Federal Register. The MMS proposed these options in response to comments to their publication in the November 6, 1995 Federal Register of proposed "Amendments to Gas Valuation Regulations for Federal Leases". The November 6, 1995 proposed regulations were written based on the final report of the "Federal Gas Valuation Negotiated Rulemaking Committee" (REGNEG). Marathon will also comment on certain related options that were drafted at the June 12-14, 1996 reconvening of REGNEG.

Marathon's comments are intended to compliment comments submitted by the American Petroleum Institute, the Rocky Mountain Oil and Gas Association, the Natural Gas Supply Association, the Independent Petroleum Association of Mountain States, the Council of Petroleum Accountants Societies, and the Independent Petroleum Association of America.

Marathon was not opposed to the original REGNEG report even though the total rule may not have been revenue neutral to Marathon itself. Marathon viewed the rule as approximating revenue neutrality with any residual loss to Marathon through increased royalty payments being offset by administrative savings that resulted from simplicity in royalty reporting and increased audit certainty. The current royalty valuation methodology involves a prolonged audit/litigation process that would be greatly reduced resulting in substantial savings to both Marathon and MMS if the REGNEG proposals were enacted.

#### **MAY 21, 1996 FEDERAL REGISTER OPTIONS**

Marathon incorporates by reference those comments submitted by the aforementioned industry organizations regarding this subject matter. However, Marathon wants to emphasize one portion of the OPTIONS and its significant departure from REGNEG. The OPTIONS replaced the MMS-calculated safety net median value with an index payor self-implementing safety net weighted average value. Since the MMS' switch

to weighted average self-implementing safety net eliminates any company with high value, dedicated long-term sales from paying royalties in that same geographic zone at an index based valuation, MMS must consider maintaining the use of median value as agreed to by REGNEG in order to eliminate high or low priced anomalies from distorting the true up value. The self-implementing safety net removes many of the REGNEG administrative savings from the equation and causes companies to keep two sets of books, i.e. one at index and one at gross proceeds. Audit issues resulting in the current protracted audit/litigation process will continue and many possible reporting simplification possibilities will be lost.

### **RECONVENED REGNEG PROPOSAL**

Marathon views the unified industry proposal that was drafted at the reconvened REGNEG as keeping the basic goals of REGNEG intact -- that being the creation of a policy that results in revenue neutrality, is simple, and adds to audit certainty. It is Marathon's opinion that a royalty payment system that uses wellhead MMBtu's as its basis will result in the optimum system for all concerned. Paying royalties at index less a location differential on wellhead MMBtu's would approximate current revenues with any losses to either party being more than offset by administrative savings. The unified industry proposal included a true up for index payors based on the median value of unaudited gross proceeds as reported on the MMS 2014's. This proposal would greatly reduce the administrative burden to MMS of calculating a safety net value. Marathon believes that a true up to unaudited gross proceeds would result in a value that approximates revenue neutrality.

In conclusion, Marathon cannot support the OPTIONS as published. Marathon continues to support the REGNEG consensus rule and the unified industry proposal as drafted at the reconvened REGNEG. Marathon was disappointed at MMS' move away from the consensus that resulted from REGNEG. The creditability of future negotiated rulemakings is at stake if the MMS' final rule significantly differs from the original REGNEG consensus.

Sincerely,



Dow L. Campbell  
Attorney

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